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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,050	04/15/2004	Timothy E. Campbell	75582-004	7195
29493 7590 03/22/2007 HUSCH & EPPENBERGER, LLC 190 CARONDELET PLAZA SUITE 600 ST. LOUIS, MO 63105-3441			EXAMINER DICUS, TAMRA	
			ART UNIT 1774	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/22/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/825,050

Applicant(s)

CAMPBELL, TIMOTHY E.

Examiner

Tamra L. Dicus

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07-22-04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's election of Group I, claims 1-5, in the reply filed on 11-02-06 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP §818.03(a)).

The requirement is still deemed proper and is therefore made FINAL.

Claim Objections

2. Claim 1 is objected to because of the following informalities: Instant claim 1 recites a polymer layer over at least said ink layer, which from the drawings appear to be under. If Applicant indeed means over, then an appropriate drawing is needed. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, and 3-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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To instant claim 1: The terms “substantially circumscribing”, “substantially over”, “substantially within” are indefinite as the specification does not provide a definition to the metes and bounds of the phrase. In order to determine infringement of the present claims, one necessarily would need to determine with a reasonable degree of certainty the scope of the phrase “substantially the same.” Applicant has failed to provide any such guidance and, accordingly, this phrase renders the scope of the claims unclear.

Instant claim 3 recites “also having a polyurethane lens thereover” which is not explicitly clear because it is not clear if there is an additional lens in the same position as claim 1 or another lens directly under polymer layer in addition to the lens in claim 1. It is suggested to use “further comprising” language if there is an additional lens.

Instant claim 4 recites “said first ink layer” and “said second ink layer” which lacks antecedent basis. Further it is not clear as to the structure of this claim. Instant claim 5 has the same issues.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Sullivan.

Sullivan teaches instant claim 1: an image laminate (FIG. 4 and associated text) comprising backing of fabric (10, FIG 4 and associated text); ink image (14, printed image, FIG 4 and associated text); polymer (8, transparent plastic film of Mylar® otherwise known as

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polyester, FIG 4 and associated text); boundary material (20 of conventional ink (as per instant spec, page.6, lines 11-13), FIG 4 and associated text), polyurethane lens (24, dome of polyurethane, FIG 4 and associated text). FIG 4 shows the substantially positions as claimed.

Claim 1 is met.

Claims 1-5 are rejected under 35 U.S.C. 102(b) as being by anticipated by Conley.

Conley teaches instant claim 1: an image laminate (FIG. 6 and associated text) comprising backing of paper or plastic (10, FIG 6 and associated text); ink image (12, printed message, FIG 6 and associated text); polymer (32, transparent plastic or film, FIG 6 and associated text); boundary material (24, screen printed lines of conventional ink (as per instant spec, page.6, lines 11-13), FIG 6 and associated text), polyurethane lens (14, lens of polyurethane, FIG 6 and associated text and 20, FIG 1). Conley directs the reader from FIG 6 to FIG 1 to show the detail of the lens. The lens of FIG 6 is comprised of lenticules (20, FIG 1) from 3 to 250 that extend to the full height of the image, shown in FIG 1, and is equivalent to being substantially over the ink image layer, and also show boundary lines substantially circumscribing print image 26 from print image 12 in FIG 1. Conley teaches the lens range is from 3 to 250 and are positioned over the lines and the inner lens portion is within the boundary lines, which is taken to mean substantially within the boundary lines (5:34-55). See also FIG 3, 4:15-30, 6:5, 7:20-66, 8:5-60, and 9:5-25. FIG 3 shows the same construction and materials as FIG 6 without an extra middle printable planar sheet. Instant Claims 1 and 5 is met.

To instant Claim 2, the display is laminated and multilayered, all the layers are of plastic, thereby forming instant claim 2 (see further 7:61, 8:20).

To instant Claim 3 another image "SALE" in addition to "Blow-out" is on backing 10 with more than one lens over it (see the multitude of lenses) as required in FIG 3.

To instant claim 4, inks and images are separated having boundaries, see text and lines special distances shown in FIGS 3 & 6.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conley.

Conley essentially teaches the claimed invention.

To instant Claim 3 another image "SALE" in addition to "Blow-out" is on backing 10 with more than one lens over it (see the multitude of lenses) as required in FIG 3.

Instant Claim 5 is shown above in FIGS 3 and 6.

Further to instant claim 3, because the claim is not clear, the Examiner's interpretation is addressed: if a lens is between the base and polymer layer, Conley does not explicitly teach this. However, Conley clearly teaches the use of the lens to bring about a three-dimensional image in any combination with the planar sheets (4:25-30, Abstract) and thus, it would have been obvious to one having ordinary skill in the art to have placed an additional lens between images to create a three dimensional view as Conley teaches.


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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamra L. Dicus whose telephone number is 571-272-1519. The examiner can normally be reached on Monday-Friday, 7:00-4:30 p.m., alternate Fridays.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Tamra L. Dicus
Examiner
Art Unit 1774

March 17, 2007



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